

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK-----X
OFF-WHITE LLC,

Plaintiff,

-v-

ALI JR., et al.,

Defendants.
-----X

19 Civ. 1775 (PAE) (SN)

OPINION & ORDER

PAUL A. ENGELMAYER, District Judge:

Currently pending is plaintiffs' motion for a default judgment against 39 defendants (the "Defaulting Defendants"),¹ arising from these defendants' Lanham Act violations. The Court has earlier entered a default as to liability. Before the Court is the July 23, 2021 Report and Recommendation of the Hon. Sarah Netburn, United States Magistrate Judge, recommending that the Court award \$5.1 million in statutory damages under the Lanham Act. The Court incorporates by reference the summary of the facts provided in the Report. For the following reasons, the Court adopts this recommendation.

¹ As identified by plaintiff, the Defaulting Defendants are: (1) AlvinCaraballo, (2) AndrewSobers, (3) bethanyastri, (4) BeverlyBush, (5) CurtisHoffer, (6) David0112, (7) DeborahTheberge, (8) DeniseGomez, (9) DennRamos, (10) drxft, (11) edward35, (12) EdwardLesper, (13) EvelynLeod, (14) GerySantiago, (15) HelenMason, (16) Jameirkle, (17) JasonCrew, (18) Jenkinskurt, (19) JonathonMcCoy, (20) KimBoykins, (21) koba jgenti, (22) Lori2D, (23) LuellaVincent, (24) Maria Harn, (25) Mark Osuna, (26) MiriamKinsey, (27) mmarkleyj, (28) Naremiseng, (29) optixal, (30) pimssims, (31) Scarlett P Hoang, (32) SuzanneMacdo, (33) TeresaReeves, (34) TeresaRichard, (35) Viktoria Thorbjornsen, (36) wandaxgigli, (37) WilliamSweet, (38) willup, and (39) ypowkq. See Dkt. 41.

DISCUSSION

In reviewing a Report and Recommendation, a district court “may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge.” 28 U.S.C. § 636(b)(1)(C). “To accept those portions of the report to which no timely objection has been made, a district court need only satisfy itself that there is no clear error on the face of the record.” *Ruiz v. Citibank, N.A.*, No. 10 Civ. 5950 (KPF), 2014 WL 4635575, at *2 (S.D.N.Y. Aug. 19, 2014) (quoting *King v. Greiner*, No. 02 Civ. 5810 (DLC), 2009 WL 2001439, at *4 (S.D.N.Y. July 8, 2009)); *see also, e.g., Wilds v. United Parcel Serv.*, 262 F. Supp. 2d 163, 169 (S.D.N.Y. 2003).

As no party has submitted objections to the Report, review for clear error is appropriate. Careful review of Judge Netburn’s thorough and well-reasoned Report reveals no facial error in its conclusions; the Report is therefore adopted in its entirety. Because the Report explicitly states that “failure to object within fourteen (14) days will result in a waiver of objections and will preclude appellate review,” Report at 32, the parties’ failure to object operates as a waiver of appellate review. *See Caidor v. Onondaga Cty.*, 517 F.3d 601, 604 (2d Cir. 2008) (citing *Small v. Sec’y of Health & Human Servs.*, 892 F.2d 15, 16 (2d Cir. 1989) (per curiam)).

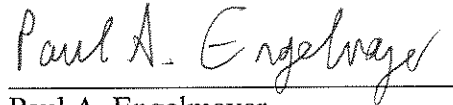
CONCLUSION

For the foregoing reasons, the Court grants the award of \$5.1 million in statutory damages under the Lanham Act according to the tiered structure proposed by Off-White and adopted by Judge Netburn: \$100,000 from the 35 Defaulting Defendants who made between 1 and 93 sales of counterfeit Off-White Products; \$200,000 from the three Defaulting Defendants who made between 121 and 228 sales of counterfeit Off-White Products; and \$1 million from the one Defaulting Defendant who made 1,731 sales of counterfeit Off-White Products. Off-White is

also entitled to post-judgment interest on this judgment amount. Additionally, the Court adopts Judge Netburn's recommendation that Off-White's request for a post-judgment order freezing each Defaulting Defendants' assets and authorizing the transfer of those assets to Off-White be denied, but that Off-White be permitted to execute on and enforce the Court's judgment immediately.

The Court respectfully directs the Clerk to mail a copy of this decision to plaintiffs at the address on file, and to close this case.

SO ORDERED.



Paul A. Engelmayer
United States District Judge

Dated: August 31, 2021
New York, New York